

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(San Joaquin)

THE PEOPLE,

Plaintiff and Respondent,

v.

TIMOTHY DUANE OSLIN, JR.,

Defendant and Appellant.

C081306

(Super. Ct. No. SF129493B)

On September 23, 2014, a search warrant was executed on real property rented by defendant Timothy Duane Oslin, Jr. Assisting the officers executing the warrant was Brian Graddy, a revenue assurance representative for PG&E. While on the property, which included a residence and a separate “shop,” Graddy determined that two utility meters were being circumvented with the use of spliced wires. That misappropriated energy was being used to power 17 lights (1,000-watts each), 12 standard fans, 3 dehumidifiers, and 2 fluorescent light banks. Defendant told Graddy the “bypass” had been in place for four years.

The search of the property disclosed 82 marijuana plants, 73 pounds of processed marijuana, 31 pounds of marijuana “shake,” marijuana “edibles,” and Proposition 215 prescriptions. There were three different “grow rooms” illuminated by multiple lights, butane canisters, honey oil, and more than \$11,000 cash.

Defendant claimed the property served as a marijuana dispensary. He said that he ran a “marijuana cannabis delivery service” within the meaning of Proposition 215. He showed the officers “Prop. 215 paperwork.”

The People charged defendant with several felonies: (1) cultivating marijuana; (2) possessing marijuana for sale; (3) manufacturing a controlled substance other than PCP; (4) theft of utility services; and (5) possession of concentrated cannabis. He pled guilty to possessing marijuana for sale, manufacturing a controlled substance, and theft of utility services.

The trial court suspended imposition of sentence and placed defendant on formal probation for five years and granted the People’s motion to dismiss the remaining charges. The court also ordered defendant to serve 365 days in county jail or in an alternative program (e.g., home detention, work project, or work furlough).

On January 29, 2016, the trial court presided over a contested hearing on victim restitution. Graddy testified that based on utility records, the bypass was installed on or about June 22, 2011. The bypass was then used through September 23, 2014, for a total of 1,189 days. After subtracting the amount of power that was registered on the meters, he estimated defendant stole 479,237 kilowatts of electricity. Taking into account rate changes and rate structures based on usage, he then estimated that the bypass resulted in lost revenue in the amount of \$166,297.20. Investigation costs were an additional \$1,466.39.

The trial court determined the best estimate of the loss amounted to \$166,026. The court reached that total by multiplying 478,461.923 kilowatt-hours by the average

rate of .347 cents per hour. The court ordered defendant to pay restitution to PG&E accordingly.

Defendant appeals. He did not obtain a certificate of probable cause.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of the filing of the opening brief. More than 30 days have elapsed and we received no communication from defendant. Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

/s/
Robie, J.

We concur:

/s/
Raye, P. J.

/s/
Nicholson, J.